



House of Representatives

General Assembly

File No. 305

February Session, 2000

Substitute House Bill No. 5789

House of Representatives, March 29, 2000

The Committee on Public Health reported through REP. EBERLE of the 15th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning The Tobacco Settlement Fund, The Tobacco And Health Trust Fund And A Tobacco Abuse Reduction And Health Plan.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 26 of public act 99-2 of the June special session is
2 repealed and the following is substituted in lieu thereof:

3 (a) There is created a Tobacco Settlement Fund which shall be a
4 separate nonlapsing fund. Any funds received by the state from the
5 Master Settlement Agreement executed November 23, 1998, shall be
6 deposited into the fund.

7 (b) The Treasurer is authorized to invest all or any part of the
8 Tobacco Settlement Fund and all or any part of the Tobacco and Health
9 Trust Fund created in section 27 of public act 99-2 of the June special
10 session, as amended by this act. The interest derived from any such
11 investment shall be credited to the resources of the fund from which

12 the investment was made.

13 (c) For the fiscal years ending June 30, 2000, and June 30, 2001,
14 [annual] disbursements from the Tobacco Settlement Fund shall be
15 made [as follows: (1) First] first to the General Fund in the amount
16 identified as "Transfer from Tobacco Settlement Fund" in the General
17 Fund revenue schedule adopted by the General Assembly, [;] and [(2)]
18 second to the Tobacco and Health Trust Fund in an amount equal to
19 twenty million dollars. For the fiscal year ending June 30, 2002, and
20 each fiscal year thereafter, disbursements from the Tobacco Settlement
21 Fund shall be made as follows: (1) To the Tobacco and Health Trust
22 Fund in an amount equal to at least fifteen per cent of the total amount
23 of funds received in the current year from the Master Settlement
24 Agreement; (2) to the General Fund in the amount identified as
25 "Transfer from Tobacco Settlement Fund" in the General Fund revenue
26 schedule adopted by the General Assembly; and (3) such other
27 disbursements or transfers as may be authorized by the General
28 Assembly.

29 [(d) Notwithstanding the provisions of subdivision (2) of subsection
30 (c) of this section, for]

31 (d) For the fiscal year ending June 30, 2000, five million dollars shall
32 be disbursed from the Tobacco Settlement Fund to a tobacco grant
33 account to be established in the Office of Policy and Management.
34 Such funds shall not lapse on June 30, 2000, and shall continue to be
35 available for expenditure during the fiscal year ending June 30, 2001.

36 (e) [Grants] Tobacco grants shall be made from the account
37 established pursuant to subsection (d) of this section by the Secretary
38 of the Office of Policy and Management in consultation with the
39 speaker of the House of Representatives, the president pro tempore of
40 the Senate, the majority leader of the House of Representatives, the
41 majority leader of the Senate, the minority leader of the House of
42 Representatives, the minority leader of the Senate, and the

43 cochairpersons and ranking members of the joint standing committees
44 of the General Assembly having cognizance of matters relating to
45 public health and appropriations and the budgets of state agencies, or
46 their designees. Such grants shall be used to reduce tobacco abuse
47 through prevention, education, cessation, treatment, enforcement and
48 health needs programs.

49 Sec. 2. Section 27 of public act 99-2 of the June special session is
50 repealed and the following is substituted in lieu thereof:

51 (a) There is created a Tobacco and Health Trust Fund which shall be
52 a separate nonlapsing fund. The purpose of the trust fund shall be to
53 create a continuing significant source of funds to (1) support and
54 encourage development of programs to reduce tobacco abuse through
55 prevention, education and cessation programs, (2) support and
56 encourage development of programs to reduce substance abuse, and
57 (3) develop a plan to meet the unmet physical and mental health needs
58 in the state.

59 (b) The trust fund may accept transfers from the Tobacco Settlement
60 Fund and may apply for and accept gifts, grants or donations from
61 public or private sources to enable the trust fund to carry out its
62 objectives.

63 (c) The trust fund shall be administered by a board of trustees which
64 shall consist of sixteen trustees. The appointment of the initial trustees
65 shall be as follows: (1) The Governor shall appoint four trustees, one of
66 whom shall serve for a term of one year from July 1, 2000, two of
67 whom shall serve for a term of two years from July 1, 2000, and one of
68 whom shall serve for a term of three years from July 1, 2000; (2) the
69 speaker of the House of Representatives and the president pro tempore
70 of the Senate each shall appoint two trustees, one of whom shall serve
71 for a term of two years from July 1, 2000, and one of whom shall serve
72 for a term of three years from July 1, 2000; (3) the majority leader of the
73 House of Representatives and the majority leader of the Senate each

74 shall appoint two trustees, one of whom shall serve for a term of one
75 year from July 1, 2000, and one of whom shall serve for a term of three
76 years from July 1, 2000; and (4) the minority leader of the House of
77 Representatives and the minority leader of the Senate each shall
78 appoint two trustees, one of whom shall serve for a term of one year
79 from July 1, 2000, and one of whom shall serve for a term of two years
80 from July 1, 2000. Following the expiration of such initial terms,
81 subsequent trustees shall serve for a term of three years. The trustees
82 shall serve without compensation except for reimbursement for
83 necessary expenses incurred in performing their duties. The board of
84 trustees shall establish rules of procedure for the conduct of its
85 business which shall include, but not be limited to, criteria, processes
86 and procedures to be used in selecting programs to receive money
87 from the trust fund. The trust fund shall be within the Office of
88 Legislative Management for administrative purposes only.

89 (d) (1) During the period commencing July 1, 2000, and ending June
90 30, 2005, the board of trustees, by majority vote, may recommend
91 authorization of disbursement from the trust fund for the purposes
92 described in section 3 of this act, provided the board may not
93 recommend authorization of disbursement of more than fifty per cent
94 of net earnings from the principal of the trust fund for such purposes.
95 The board's recommendations shall give (A) priority to programs that
96 address tobacco and substance abuse and serve minors, pregnant
97 women and parents of young children, and (B) consideration to the
98 availability of private matching funds. Recommended disbursements
99 from the trust fund shall be in addition to any resources that would
100 otherwise be appropriated by the state for such purposes and
101 programs.

102 (2) The board of trustees shall submit such recommendations for the
103 authorization of disbursement from the trust fund to the joint standing
104 committees of the General Assembly having cognizance of matters
105 relating to public health and appropriations and the budgets of state

106 agencies. Not later than thirty days after receipt of such
107 recommendations, said committees shall advise the board of their
108 approval, modifications, if any, or rejection of the board's
109 recommendations. If said joint standing committees do not concur, the
110 speaker of the House of Representatives, the president pro tempore of
111 the Senate, the majority leader of the House of Representatives, the
112 majority leader of the Senate, the minority leader of the House of
113 Representatives and the minority leader of the Senate each shall
114 appoint one member from each of said joint standing committees to
115 serve as a committee on conference. The committee on conference shall
116 submit its report to both committees, which shall vote to accept or
117 reject the report. The report of the committee on conference may not be
118 amended. If a joint standing committee rejects the report of the
119 committee on conference, the board's recommendations shall be
120 deemed approved. If the joint standing committees accept the report of
121 the committee on conference, the joint standing committee having
122 cognizance of matters relating to appropriations and the budgets of
123 state agencies shall advise the board of said joint standing committees'
124 approval or modifications, if any, of the board's recommended
125 disbursement. If said joint standing committees do not act within thirty
126 days after receipt of the board's recommendations for the
127 authorization of disbursement, such recommendations shall be
128 deemed approved. Disbursement from the trust fund shall be in
129 accordance with the board's recommendations as approved or
130 modified by said joint standing committees.

131 (3) After such recommendations for the authorization of
132 disbursement have been approved or modified pursuant to
133 subdivision (2) of this subsection, any modification in the amount of an
134 authorized disbursement in excess of fifty thousand dollars or ten per
135 cent of the authorized amount, whichever is less, shall be submitted to
136 said joint standing committees and approved, modified or rejected in
137 accordance with the procedure set forth in subdivision (2) of this
138 subsection. Notification of all disbursements from the trust fund made

139 pursuant to this section shall be sent to the joint standing committees
140 of the General Assembly having cognizance of matters relating to
141 public health and appropriations and the budgets of state agencies,
142 through the Office of Fiscal Analysis.

143 (4) The board of trustees shall, not later than February first of each
144 year, submit a report to the General Assembly, in accordance with the
145 provisions of section 11-4a of the general statutes, that includes all
146 disbursements and other expenditures from the trust fund and an
147 evaluation of the performance and impact of each program receiving
148 funds from the trust fund. Such report shall also include the criteria
149 and application process used to select programs to receive such funds.

150 Sec. 3. (NEW) The Commissioner of Public Health, in consultation
151 with the Commissioners of Mental Health and Addiction Services,
152 Education and Consumer Protection, shall develop a Tobacco Abuse
153 Reduction and Health Plan and shall submit such plan to the joint
154 standing committees of the General Assembly having cognizance of
155 matters relating to public health and appropriations and the budgets of
156 state agencies, not later than January 1, 2003. The plan shall consider
157 and recommend actions to (1) reduce tobacco and substance abuse,
158 and (2) address the unmet physical and mental health needs of the
159 state, taking into account the Health Needs 2000 report.

160 Sec. 4. This act shall take effect from its passage.

PH Committee Vote: Yea 25 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Yes

Affected Agencies: Office of Legislative Management, State Treasurer; Departments of Public Health, Mental Health and Addiction Services, Education, Consumer Protection

Municipal Impact: None

Explanation**State Impact:****Introduction**

The bill specifies the future distribution of the Tobacco Settlement Funds received by the state, establishes a Board of Trustees for the Tobacco and Health Trust Fund, and requires the Department of Public Health to develop a tobacco abuse reduction and health plan by January 1, 2003.

Tobacco Settlement Funds

For FY 02 and subsequent fiscal years, disbursement from the Tobacco Settlement Fund will be:

- In an amount adopted by the General Assembly, to the General Fund revenue schedule,

- At least fifteen percent (15 %) to the Tobacco and Health Trust Fund, and
- Such other disbursements or transfers as authorized by the General Assembly.

Please refer to the table below for a comparison of the distribution of FY 01 Tobacco Settlement monies adopted within SA 99-10 (the 1999-01 Biennial Appropriations Act) with current revised figures.

Tobacco Settlement Fund - FY 01 (in millions)		
	SA 99-10	Revised
Beginning Balance	\$62.8	\$42.7
CT Share of Settlement	133.5	112.0
Transfer to General Fund	(150.3)	(150.3)
Transfer to Tobacco and Health Trust Fund	(20.0)	(20.0)
Ending Balance	\$26.0	\$(15.6)

Earmarking fifteen percent (15%) of Tobacco Settlement payments in FY 02 for the Tobacco and Health Trust Fund will reduce the amount available to be transferred to the General Fund by \$19.5 million, as shown below.

Tobacco Settlement Fund - FY 02 Projected (in millions)		
	Current Law	sHB 5789
Beginning Balance	\$ (15.6)	\$ (15.6)
CT Share of Settlement (estimated)	130.3	130.3

Transfer to Tobacco and Health Trust Fund	0.0	(19.5)
Available for Transfer to General Fund (1)	\$ 114.7	\$ 95.2
(1) Assuming the current law \$15.6 million deficiency is addressed by legislative action in FY 01, the amount available for transfer to the General Fund would be increased to \$130.3 under current law, and \$110.8 under sHB 5789.		

Board of Trustees of the Tobacco and Health Trust Fund

The bill establishes a sixteen-member Board of Trustees. This will result in a minimal cost to the Office of Legislative Management (OLM), which can be accommodated within anticipated budgetary resources, as members will be entitled to reimbursement of necessary expenses.

Placing the Tobacco and Health Trust Fund within the OLM for administrative purposes only will result in an indeterminate fiscal impact. It is not clear what administrative responsibilities will be required of the Office. Therefore, it cannot be determined at this time whether these responsibilities can be handled within its anticipated budgetary resources.

For each of FY 01 – FY 05, the Board of Trustees may recommend authorization of disbursement from the Trust Fund, provided it may not recommend authorization of disbursement of more than fifty per cent of net earnings from the principal of the Trust Fund. Priority shall be given to programs addressing tobacco and substance abuse and those serving minors, pregnant women and parents of young children, as well as the availability of private matching funds. The bill appears to prohibit the supplanting of state funds for these purposes with Trust

Fund monies.

The Public Health and Appropriations Committees will be charged with reviewing the proposed disbursements, as well as proposed modifications to the same in excess of \$50,000 or ten percent of the authorized amount, whichever is less. A minimal cost, which can be accommodated within anticipated budgetary resources, will be incurred by the OLM to reimburse legislators attending resulting committee meetings for mileage expenses.

Spending Cap

It should be noted that the \$5 million provided to the Tobacco Grant Account under the Office of Policy and Management within Section 25 of PA 99-2 JSS were excluded from the spending cap as they were construed to be "non-appropriated" funds. Similarly, it is assumed that disbursements from the Tobacco and Health Trust Fund would also be construed to be excluded from the spending cap since they are not appropriated and are considered to be "off budget." The approval process set forth in the bill is similar to that used for federal block grants.

Tobacco Abuse Reduction and Health Plan

The bill requires the Department of Public Health, in consultation with the Departments of Mental Health and Addiction Services, Education and Consumer Protection, to develop a tobacco abuse reduction and health plan by January 1, 2003. It is anticipated that these agencies will incur minimal costs, which can be accommodated within their anticipated budgetary resources, to participate in this process.

OFA Comment

Whether the monies in the Tobacco Grant account and the Tobacco and Health Trust Fund are subject to the spending cap is a matter of

interpretation, however, under the current interpretation, these monies would not be subject to the spending cap since they will not be subject to appropriation. This would be consistent with current spending cap calculations.

Pursuant to CGS 2-33a, the spending cap applies to “expenditures from appropriated funds authorized by public or special act.” Since expenditures from the Tobacco Grant account and the Tobacco and Health Trust Fund do not require appropriation by the General Assembly, they would be considered an “off budget” or non-appropriated source of funding and would be interpreted to be exempt from the spending cap. However, CGS 4-69 subsection (4) defines an appropriation as “an authorization by the General Assembly to make expenditures and incur liabilities.” Under this definition there is no distinction between “on” or “off budget” expenditures. Additionally, the Tobacco Grant account and the Tobacco and Health Trust Fund are authorized by public act and on that basis could be interpreted to be subject to the spending cap.

For the purposes of current spending cap calculations only the ten funds appropriated in the budget bill are considered appropriated funds. Treating the funding mechanisms in this bill in a manner consistent with current practice, they would not be subject to the spending cap.

OLR Bill Analysis**sHB 5789*****AN ACT CONCERNING THE TOBACCO SETTLEMENT FUND, THE TOBACCO AND HEALTH TRUST FUND AND A TOBACCO ABUSE REDUCTION AND HEALTH PLAN.*****SUMMARY:**

This bill revises the requirements concerning the distribution of tobacco settlement funds through the existing Tobacco Settlement Fund and the Tobacco and Health Trust Fund. It creates a 16-member board of trustees to administer the Tobacco and Health Trust Fund and make recommendations on trust fund disbursements.

The bill requires the Department of Public Health (DPH), in consultation with other departments, to develop a Tobacco Reduction and Health Plan and submit it to the legislature. The bill also makes technical changes.

EFFECTIVE DATE: Upon passage

TOBACCO SETTLEMENT FUND

By law, there is a Tobacco Settlement Fund that is a separate, nonlapsing repository for any funds the state receives from the 1998 Master Settlement Agreement.

Beginning fiscal year 2001-2002 and afterwards, Tobacco Settlement Fund disbursements must be as follows: (1) at least 15% of the total funds received in the current year from the Master Settlement Agreement to the Tobacco and Health Trust Fund; (2) the amount identified as "Transfer from Tobacco Settlement Fund" in the General Fund revenue schedule adopted by the General Assembly to the General Fund; and (3) other disbursement or transfers as authorized by the General Assembly.

TOBACCO AND HEALTH TRUST FUND

By law, there is a Tobacco Health Trust Fund that is a separate, nonlapsing fund. This trust fund may accept transfers from the Tobacco Settlement Fund and apply for and accept gifts, grants, or donations from public or private sources so the trust fund can carry out its objectives.

This bill clarifies that the name of the fund is the "Tobacco and Health Trust Fund," and specifies that its purpose is to create a continuing significant source of funds to (1) support and encourage programs to reduce tobacco abuse through prevention, education and cessation; (2) support and encourage program development for substance abuse reduction; and (3) develop a plan to meet the state's unmet physical and mental health needs. The trust fund is within the Office of Legislative Management for administrative purposes only.

Board of Trustees

The bill creates a 16-member board of trustees to administer the fund. Initial appointees, whose terms begin July 1, 2000 are (1) four appointed by the governor, one serving a one-year term, two serving two years and one serving three years; (2) four appointees, two each appointed by the speaker of the House and the Senate president pro tempore, two serving for two years and the other two serving three years; (3) four appointees, two each appointed by the House and Senate majority leaders, two serving for one year, and two serving for three years; and (4) four appointees, two each appointed by the House and Senate minority leaders, two serving for one year and two serving for two years. Following the initial terms, subsequent appointees serve three-year terms.

Trustees are not compensated except for reimbursement for necessary expenses incurred in performing their duties. The board of trustees must establish rules of procedure that must include criteria, processes and procedures for selecting programs to receive money from the trust fund.

Trust Fund Disbursement

During the period July 1, 2000, to June 30, 2005, the board of trustees

can, by majority vote, recommend authorization of fund disbursement for activities to reduce tobacco and substance abuse, and address the unmet physical and mental health needs of the state (see COMMENT). The board may not recommend disbursement of more than 50% of net earnings from the trust fund's principal for such purposes. The board's recommendations must give (1) priority to programs that address tobacco and substance abuse and serve minors, pregnant women, and parents of young children, and (2) consideration to availability of private matching funds. Recommended disbursements are in addition to any resources that would otherwise be appropriated by the state for such purposes.

The board must submit its disbursement recommendations to the Public Health and Appropriations committees (the "standing committees"). Within 30 days of their receipt, the standing committees must advise the board of their approval, modifications, or rejection of the recommendations. If the standing committees do not agree, the House speaker, Senate president pro tempore, House and Senate majority leaders, and House and Senate minority leaders must each appoint one member from each such committee to serve on a conference committee. The conference committee must report to both standing committees. The committees must vote to accept or reject the report. The conference committee's report cannot be amended. The board's recommendations are deemed approved if a standing committee rejects the conference committee's report. If the standing committees accept the conference report, the Appropriations Committee must advise the board of trustees of the standing committees' approval or modification of the board's recommendations.

The board's recommendations for disbursement are deemed approved if the standing committees do not act within 30 days after receiving the board's recommendations. Trust fund disbursements must be according to the board's recommendations as approved or modified by the standing committees.

Modification of Authorized Disbursements

If the board modifies the amount of an authorized disbursement exceeding \$50,000 or 10% of the authorized amount (whichever is less), after recommendations for disbursement have already been approved

or modified, it must submit the proposed modification to the Public Health and Appropriations committees and have it approved, modified or rejected according to the procedures outlined above.

Notification of Disbursements

Notification of all disbursements from the trust fund must be sent to the Public Health and Appropriations committees through the Office of Fiscal Analysis.

Board of Trustees' Report

By February 1 annually, the board must report to the General Assembly on all disbursements and other expenditures from the trust fund. The report must also evaluate the performance and effect of each program receiving funds from the trust fund. The report must include the criteria and application process used to select these programs.

TOBACCO ABUSE REDUCTION AND HEALTH PLAN

The bill requires the Department of Public Health (DPH) commissioner, in consultation with the commissioners of mental health and addiction services, education, and consumer protection, to develop a Tobacco Abuse Reduction and Health Plan. The plan must be submitted to the Public Health and Appropriations committees by January 1, 2003. It must consider and recommend actions to (1) reduce tobacco and substance abuse, and (2) address the state's unmet physical and mental health needs, considering DPH's Health Needs 2000 report.

COMMENT

Possible Ambiguity

The bill allows the board to recommend authorization of trust fund disbursements, from July 1, 2000 to June 30, 2005, for the purposes described in "section 3 of the act." Section 3 requires DPH to develop a Tobacco Abuse Reduction and Health Plan that has to be submitted to the legislature by January 1, 2003.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 25 Nay 0